

Michigan Department of Civil Service

REGULATION

Appointing Authority Letter Reference: CS- 6966 6959	Effective Date: 2002 <u>January 1,</u> October 11, 2001	Index Reference: Performance-pay	Regulation Number: 5.07
Issuing Bureau: Human Resource Services	Rule Reference: Rule 5-3 (Compensation Schedules) <u>Rule 4-6 (Senior Executive Service (SES))</u> <u>Rule 4-7 (Senior Executive Management Assistant Service (SEMAS))</u>		Replaces: Reg. 5.07- and 5.17 <u>(CS-6959, October 11,</u> <u>2001)</u> (CS-6940, March 18, 2001)
Subject: PERFORMANCE-PAY AND IT BONUS PROGRAMS			

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1. **PURPOSE**

This regulation establishes the standards for the performance-pay programs and for information technology signing and mission critical skills bonus payments. Performance-pay programs are designed to establish and maintain appropriate relationships among individual and group performance, individual competencies, departmental objectives, departmental budget, and pay. Eligibility for a performance-pay award is based upon evaluation of the performance of an individual, a team of eligible individuals, or an entire agency. The department's ability to pay may be considered in setting performance-pay award amounts. The information technology program signing and mission critical skills bonuses are designed to be used as recruitment and retention tools.

2. **CIVIL SERVICE COMMISSION RULE REFERENCE**

Rule 4-6 Senior Executive Service (SES)

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4-6.2(e)(4) Improper Classification. *If the department of civil service determines that a senior executive service position is not properly classified, an appointing authority cannot appoint or reappoint any person to the position or execute a senior executive service position agreement for the position until the department of civil service has approved an updated position and properly classified the position.*

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Rule 4-7 Senior Executive Management Assistant Service (SEMAS)

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4-7.2(e)(4) Improper Classification. *If the department of civil service determines that a senior executive management assistant service position is not properly classified, an appointing authority cannot appoint or reappoint any person to the*

position or execute a SEMAS agreement for the position until the department of civil service has approved an updated position and properly classified the position.

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Rule 5-3 Compensation Schedules

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5-3.2 Departmental Salary-range Subdivisions — *An appointing authority, with the prior written approval of the state personnel director, may implement departmental salary-range subdivisions within a salary range. A salary-range subdivision must fall within the range of rates of compensation approved by the civil service commission for the classification. The salary-range subdivision must be based on relevant, job-related departmental considerations, such as job complexity, level of responsibility, market conditions, or reporting relationships. The appointing authority shall publish all approved salary-range subdivisions for its affected employees.*

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5-3.4 Operation of Compensation Schedules

An employee in the classified service cannot be paid less than the minimum nor more than the maximum authorized in the compensation plan, unless authorized by the state personnel director.

(a) **Initial appointment.** *On initial appointment, an employee is paid the minimum salary step in the salary range unless the appointing authority chooses to pay a higher initial salary as authorized in the compensation plan.*

(b) **Schedules with steps.** *If the compensation plan creates steps in the pay range, an employee receives pay increases in the amounts and at the intervals provided for in the compensation schedule for the employee's classification level. An employee under an unsatisfactory probationary, interim, or follow-up rating is not eligible for a step increase.*

(1) **Effective date.** *Any pay increase is effective at the beginning of the first pay period after the employee becomes eligible.*

(2) **Advancement.** *An employee advances in pay by successive steps of the pay range for the employee's classification level, as provided in the compensation plan, unless a special increase is granted in accordance with the compensation plan.*

- (3) **Reduction of pay.** *An appointing authority may, for cause, reduce the pay of an employee receiving more than the minimum step for the classification level.*
- (4) **General schedule revision.** *If the compensation schedule is amended, an employee is paid at the salary step corresponding in length of service to the step at which that employee was being paid in the previous salary range for the classification level.*

(c) **Performance-pay programs.**

- (1) **Salary range.** *For each class of positions in a performance-pay program, the civil service commission shall approve a salary range that includes (1) a minimum point, (2) one or more control points, and (3) a maximum point:*

- (A) **Minimum point.** *The minimum point is the lowest base salary payable to an employee in the classification.*
- (B) **Control point.** *The control point is the highest base salary payable to an employee in the classification.*
- (C) **Maximum point.** *The maximum point is the maximum total salary, including both base salary and any lump sum awards, payable to an employee in the classification during a fiscal year.*

(2) **Performance-pay awards.**

- (A) **Awards authorized.** *If an employee's position is included in a performance-pay program, the appointing authority, with the approval of the state personnel director, may award the employee an increase in base salary or a lump sum award, or both, in accordance with the compensation plan. The director may set limits on the amount of performance pay that may be awarded in a fiscal year.*

(B) **Performance ratings.**

- (1) *If the employee receives a needs improvement annual rating or an unsatisfactory interim or follow-up rating, the employee is not eligible for a base salary or lump sum award.*
- (2) *If the employee receives an unsatisfactory interim or follow-up rating, the appointing authority may reduce the employee's base salary in accordance with the compensation plan.*

(3) Grievances regarding performance-pay programs.

Performance-pay awards are discretionary. An employee is not authorized to appeal a final performance-pay grievance determination unless an appeal is specifically permitted in this rule or the applicable regulations.

(A) Grievance and appeal permitted. *An employee aggrieved by any of the following performance-pay actions may file a grievance and appeal the final determination of the appointing authority to the department of civil service:*

(1) *The employee receives a performance rating recognized by the department of civil service as less than satisfactory.*

(2) *The employee's pay is reduced.*

(3) *The appointing authority does not rate the performance of the employee at least once annually.*

(4) *The performance-pay action is alleged to violate rule 1-8 [Prohibited Discrimination] or rule 2-10 [Whistleblower Protection].*

(B) Grievance appeal prohibited. *In all other cases, an appointing authority is permitted, but not required, to authorize an employee aggrieved by a performance-pay action to file a grievance within the department's grievance procedure. However, unless expressly authorized in subsection (c)(3)(A), the employee cannot appeal a final performance-pay grievance determination of the appointing authority to the department of civil service. By way of example only, the following performance-pay actions cannot be appealed to the department of civil service:*

(1) *The amount of a performance-pay award.*

- (2) The failure to be awarded a performance-pay award.*
- (3) The distribution of a performance-pay award between a base salary adjustment and a lump sum award.*
- (4) A performance evaluation rating recognized by the department of civil service as satisfactory.*
- (5) The performance evaluation or performance-pay award of another employee.*
- (6) The decision to include a position into, or exclude a position from, a performance-pay program.*
- (7) The performance-pay program itself, including, for example, the performance standards, departmental evaluation methods, rating categories, and departmental salary range subdivisions.*

(d) Conversion of performance-pay schedule to step schedule. If a classification is converted from a performance-pay schedule to a schedule with steps, an employee whose position is converted must be placed at a step at least equal to the employee's base salary under the performance-pay plan at the time of conversion in accordance with the regulations.

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3. STANDARDS

- A. Scope** — The Civil Service Commission has established a performance-pay program for employees in designated classifications. The performance-pay program consists of base salary and lump sum awards to be administered within established pay ranges in accordance with regulations approved by the state personnel director.
- B. Salary Range** — The Civil Service Commission fixes the range of rates of compensation for all classifications.
 - 1. Classification Ranges** — The Civil Service Commission, for each classification level in a performance-pay program, fixes a salary

range that consists of (1) a minimum point, (2) a control point, and (3) a maximum point.

2. **Departmental Salary-range Subdivisions** — As authorized in rule-5-3.2, an appointing authority may establish one or more salary-range subdivisions within a class salary range established by the Civil Service Commission. Each salary-range subdivision must have a subdivision control point (a base-pay ceiling) that is less than the control point of the class. An appointing authority may propose a salary-range subdivision to the Department of Civil Service. The Department of Civil Service reviews the proposal and approves or denies the request. If the Department of Civil Service approves a salary-range subdivision, the appointing authority must give notice of the subdivision to each employee whose position is subject to the limits of the subdivision.

- C. **Performance-Pay** — The appointing authority may grant a performance-pay award in accordance with the standards of this regulation. A performance-pay award may consist of a base salary increase, a lump sum award, or a combination of the two.

1. **Base Salary Increase** — An employee may receive an increase in base salary up to the lower of (1) the control point for the class or (2) any applicable base ceiling if the employee's position is subject to an approved salary-range subdivision.
2. **Lump Sum Award** — An employee may receive a lump sum award not to exceed the difference between the control point and the maximum point. If the employee's base salary is below the control point or any applicable base pay ceiling, the employee may receive both a lump sum award and an increase in base salary. If the employee's base salary is at the control point or any applicable base pay ceiling, a performance award must be granted in a lump sum only.

3. **Other Performance-Pay Conditions**

- a. The total base salary and lump sum awards received by an employee in any fiscal year must not exceed the maximum point of the salary range.
- b. The minimum point of the salary range is the lowest base-pay salary for an individual appointed, reclassified, or

converted to a classification in the performance-pay program.

- c. An employee's base salary must not exceed the lower of (1) the control point or (2) any applicable base pay ceiling if the employee's position is subject to an approved salary-range subdivision.
- d. The total lump sum award received by an employee in any one fiscal year must not exceed the amount of the difference between the control point and the maximum point.
- e. An employee must receive a performance rating of "meets expectations," "high performing," or other equivalent satisfactory rating before receiving any performance-pay award.
- f. If an employee receives an "unsatisfactory" probationary, interim, or follow-up rating, the employee's base salary may be reduced. The employee's base salary may be reduced by up to **5 percent** of the base salary in any one fiscal year, unless a different percentage limit is specified for the particular class or group.
- g. **Approval Required** — Each initial rate of pay and each subsequent performance-pay action for employees in the senior executive service (SES), ECP Group 4, the senior executive management assistant service (SEMAS), and the information technology program (ITP) requires prior review and approval by the state personnel director.

- (1) **Request for Approval of Appointment or Reappointment Pay Rates and IT Program Signing Bonuses** — The appointing authority must submit a request for pay approval to the Department of Civil Service ~~via the automated web-based approval process~~ for all appointments and lateral job changes to SES, ECP Group 4, SEMAS, and ITP positions, certifying that a performance management plan is in place for the employee. ~~Approval of a signing bonus for an IT program employee must also be requested via the web-based approval process.~~ If the position is in the SES or SEMAS, ~~the SES or SEMAS~~ a limited-

term appointment agreement and certification that Civil Service has reviewed and approved a current position description must be submitted with the request. Requests must be submitted before the close of the pay period in which the appointment or reappointment is would be effective.

- (2) **Request for Approval of Performance-Pay** — The appointing authority must submit a request for pay approval to the Department of Civil Service via the automated web-based approval process for all performance-pay base salary and lump sum awards for employees in SES, ECP Group 4, SEMAS, and ITP positions, certifying that a performance evaluation has been completed. Requests must be submitted within seven pay periods of the effective date of the performance evaluation. Base salary increase retroactivity may not exceed seven (7) pay periods from the date of receipt of the request by the Department of Civil Service.

- (3) **Request for Approval of IT Signing Bonus – Approval of a signing bonus for an IT program employee must be requested at the same time the request for approval of appointment pay is submitted via the automated approval process.**

- ~~(3)~~(4) **Approval of Pay Upon Appointment and Performance-Pay** — The Department of Civil Service shall issue approval or disapproval actions on properly documented appointment pay approval requests within 5 workdays of receipt and on performance-pay approval requests within 10 work days. Special extenuating circumstances may provide a basis for approval of retroactivity beyond seven pay periods. Any requests for consideration of extenuating circumstances must be approved by the state personnel director.

4. **Other Conditions Applicable to ECP Groups 1, 2 and 3 Employees** — The following limits on performance-pay apply to all nonexclusively represented employees in Groups 1, 2, and 3 of the Equitable Classification Plan:

- a. An appointing authority must submit to the state personnel director a request to add or delete a classification to or from a performance management plan. All performance management plans, changes, and additions must be approved before implementation.
- b. The maximum performance-pay increase or decrease in base pay in any one fiscal year must not exceed **5 percent** of the employee's prior base salary.
- c. The total of all performance base pay increases and lump sum awards during any one fiscal year must not exceed **5 percent** of the employee's prior base salary.

5. Other Conditions Applicable to SES, SEMAS, and ECP Group 4 Employees — The following limits of performance-pay awards apply to all employees in the senior executive service (SES), senior executive management assistant service, and Group 4 of the Equitable Classification Plan:

- a. The maximum performance-pay increase or decrease in base pay in any one fiscal year must not exceed **5 percent** of the employee's prior base salary.
- b. The total of all performance base pay increases and lump sum awards during any one fiscal year must not exceed **10 percent** of the employee's prior base salary.
- c. Any performance award in excess of **5 percent** of the employee's base salary should typically be in the form of a lump sum award. Before an award in excess of 5 percent of the employee's base salary or in excess of the "department maximum lump sum award" amount is approved, it must be submitted by the appointing authority to the state personnel director for review and approval under statewide performance criteria.

(1) The following documentation must be submitted with each request:

- (A) **A statement of support for the award from the department director** — The statement should address the employee's

accomplishments during the rating period, the importance of the employee's achievements to the department's strategic goal attainment, and the effort or competencies applied by the employee to achieve positive results. In addition, if the department is requesting that the performance award include a base pay increase in excess of 5%, the reason(s) why a base pay increase is warranted should be addressed. The statement may address other factors the director believes should be considered as the basis for an exceptional award.

(B) The employee's performance standards and evaluation for the rating period — A copy of the signed and dated performance evaluation form must be provided that includes the performance factors/objectives, the relevant competencies, and the supervisor's evaluation.

(C) A completed request for pay approval form — A Request for Pay Approval for SES/SEMAS and Group 4 Performance-Pay Program form (CS-1725) must be provided indicating the amount of the ~~lump-sum~~ bonusaward requested. Civil service staff notifies the appointing authority of approval or disapproval of the request.

6. Other Conditions Applicable to Attorneys — The following limits on performance-pay awards apply to all attorneys, irrespective of ECP Group number, in performance-pay classifications in the department of attorney general:

- a. The maximum performance-pay increase or decrease in base pay in any one fiscal year must not exceed **8 percent** of the employee's prior base salary.
- b. The total of all performance base pay increases and lump sum awards during any one fiscal year must not exceed **8 percent** of the employee's prior base salary.

7. **Other Conditions Applicable to IT Program Employees** — The following limits on performance-pay awards apply to all employees in the IT program.
- a. **Information Technology Programmer/Analysts** — The maximum performance-pay increase or decrease in base pay in any one fiscal year must not exceed **15 percent** of the employee's prior base salary. Base salary increases for employees in this classification should reflect the rate of increase in responsibilities assigned and the employee's skill level while the employee progresses from a developing to an experienced professional. Base increases up to 15% may be awarded based on satisfactory performance ratings until the employee reaches the fixed control point or any approved salary-range subdivision ceiling.
 - b. **Information Technology Specialists and Managers** — The maximum performance-pay increase in base pay in any one fiscal year must not exceed one-half of the total performance-pay award for that year. Any appointing authority request to award more than half of the performance-pay as a base increase must be approved by the state personnel director.
 - c. The total of all performance base pay increases, lump sum awards, and any mission critical skills bonus during any one fiscal year, or any performance-pay decrease, must not exceed **15 percent** of the employee's prior base salary.
8. **Working Out of Class Compensation in Performance-Pay Classifications** — Sometimes an employee in a performance-pay program may be temporarily assigned to perform the duties and responsibilities of a properly classified position in a classification with a higher maximum salary rate or control point. In such circumstances the employee's base salary rate must not exceed the midpoint between the employee's current base salary and the fixed control point or salary-range subdivisions of the temporarily assigned classification.
- D. **Performance Evaluations** — The appointing authority must evaluate and rate each employee in a performance-pay program at least once annually. The appointing authority may use any reasonable evaluation and rating methods. However, the appointing authority must report each

performance evaluation to the state personnel director in the manner prescribed by the director to permit comparison across departments.

1. Plan for Department-wide Evaluation of SES and Group 4 Employees — Each department must have a plan on file with the state personnel director that addresses all of the following:

- a. The annual cycle for performance evaluation used by the department, including common review dates, as appropriate, and a plan to convert to common dates,
- b. A process to ensure internal consistency of performance evaluations and pay recommendations,
- c. The number of rating categories used, and, if greater than three, how they will convert to the statewide reporting categories of high performing/exceeds expectations, meets expectations, and improvement expected/does not meet expectations and,
- d. Measures to ensure timely submission of performance-pay requests to the Department of Civil Service for approval.

2. Performance Evaluation Documentation, Audit, and Reporting — The appointing authority must document and retain for compliance audit by the Department of Civil Service, the performance plan and evaluation for all employees in a performance-pay program using the appropriate Department of Civil Service Performance Management and Competency Employee Rating form or other form approved by the Department of Civil Service. If an audit finds performance evaluation documentation is inadequate, the appointing authority will be required to submit performance evaluation documents to the Department of Civil Service in order to receive performance-pay approvals. The appointing authority must report each Group 4, SES, SEMAS, and ITP employee rating to the Department of Civil Service via the automated web-based approval process when seeking performance-pay approval.

E. Salary Upon Appointment or Conversion to the SES or SEMAS — Upon appointment or conversion to the SES or SEMAS, the base salary rate must be at or above the minimum point and must not exceed the control point. The first salary review may be given at the six-month period.

F. Salary Upon New Hire or Promotion to a Performance-Pay position in ECP Groups 1, 2, 3, or 4 — Upon new hire or promotion into a Group 1 (NERE), Group 2 (NERE), Group 3, or Group 4 class of the Equitable Classification Plan, the base salary rate must not exceed the midpoint between the base salary rate received prior to the hire or the promotion and the control point of the range. If a salary-range subdivision applies, the base salary rate must not exceed the ceiling of the subdivision. The first salary review may be given at the six-month period. The state personnel director may authorize a higher starting rate upon application by the appointing authority. An appointing authority may authorize a higher rate without prior approval if any of the following apply:

1. There is difficulty in recruiting for the particular position.
2. The prospective employee is currently employed outside the classified service and a salary in excess of the midpoint formula is necessary to attract the prospective employee.
3. The prospective employee has special experience and education. The background should be well beyond the minimum qualifications contained in the specification for classification of the position.
4. The prospective employee is currently a state employee, or has been previously, and has experience pertinent to the position.

Note: The appointing authority must document the reason for the higher starting rate when one of the above conditions applies. The documentation must be retained for audit purposes.

G. Salary Upon Conversion to ECP Groups 1, 2, 3, or 4 — Upon conversion to a performance-pay program class in ECP Group 1, 2, 3, or 4, the employee's current salary is maintained if it is at or above the minimum point of the range. If the employee's pre-conversion salary is below the minimum point, the salary is set at the minimum point. The employee may be eligible for a performance review and a merit increase at the six-month point.

H. Salary Upon Reclassification from Staff Attorney to Senior Attorney – Upon reclassification from Staff Attorney to Senior Attorney, the base salary rate must not exceed the midpoint between the base salary rate received prior to the reclassification and the control point of the Senior

Attorney range, or 8% above the base salary rate received prior to the reclassification, whichever is greater.

H.I. Salary Upon Lateral Job Change of IT Program Employees — An appointing authority may not award a bonus or base pay increase to an employee upon lateral job change between departments in the same classification, unless an exception approval has been granted by the Department of Civil Service.

I.J. Salary Upon Reclassification From a Performance-Pay Classification to Another Performance-Pay Classification With a Higher Control Point — Upon reclassification within the performance-pay program, the base salary rate must not exceed the midpoint between the base salary received prior to the reclassification and the control point, or ceiling of the salary-range subdivision of the new salary range.

J.K. Effect of Position Freeze — An employee occupying a position frozen for classification or level in a performance-pay program classification must receive annual performance evaluations, but is not eligible to receive a base pay increase unless the maximum salary rate of the proper classification if a step and grade classification, or the control point of the proper classification if a performance-pay classification, exceeds the employee's base salary rate. An employee occupying a frozen position is otherwise eligible to receive lump sum performance awards.

K.L. General Salary Increases — The general pay adjustment is based on the employee's base salary on the effective date of the general pay adjustment.

L.M. Salary Upon Conversion from Performance-Pay Schedule to Step Schedule — If the state personnel director approves the conversion of an entire class or part of a class from a performance-pay schedule to a schedule with steps, the employee is placed at a pay step at least equal to the employee's base salary under the performance-pay plan at the time of conversion. The employee's hours since last step are set to reflect the number of hours in pay status since the effective date of the last performance evaluation, which must be less than 2,080 hours. If the employee served less than 2,080 hours in the position and has not received a performance evaluation, the hours since last step are set to reflect the number of hours in pay status in the position.

M.N. IT Program Signing Bonus — To attract eligible information technology employees who possess skills that are in high market demand, a one-time

lump sum bonus of up to \$5,000 may be paid with the approval of the Department of Civil Service. Current classified career information technology employees are not eligible for the bonus. The bonus is only paid when necessary to secure a commitment from a highly qualified candidate and when filling hard-to-fill positions.

1. The employee, hiring manager, and appointing authority must sign an Information Technology Signing Bonus Repayment Agreement (CS-1741a). The employee agrees to pay back the entire bonus to the state, including tax withholding thereon, if the employee leaves the department within one year of the appointment. Payback remittances are owed and payable in full within 30 days of the termination date.
2. The signing bonus is paid as a gross pay adjustment with the employee's first pay warrant, and is part of the total compensation for the first week of employment.
3. The appointing authority must retain documentation regarding the salary necessary to attract, subject to audit by the Department of Civil Service.
4. An employee who receives a signing bonus is not eligible for a mission critical skills bonus in the same fiscal year.

N.O. IT Program Mission Critical Skills Bonus — To retain information technology employees whose skills are needed in a mission critical area as determined by the department and specifically designated in the employee's position description as comprising at least 50 percent of the work, a lump sum bonus of up to 10 percent of the annual base pay may be paid in a fiscal year, with the approval of the Department of Civil Service.

1. The employee, the employee's manager, and the appointing authority must sign an Information Technology Mission Critical Skills Bonus Repayment Agreement. The employee agrees to pay back the entire bonus to the state, including tax withholding thereon, if the employee leaves the department within one year of the effective date of the bonus. Pay back remittances are owed and payable in full within 30 days of the termination date.

2. The combined total of the mission critical skills bonus and any performance-pay award is limited to 15 percent of the base salary for the fiscal year.
3. The bonus cannot be carried to another department. However, if an employee moves to another department, the employee is eligible for a mission critical skills bonus after a year with the new department.
4. The appointing authority must request and receive approval to pay a mission critical skills bonus from the Department of Civil Service via the web-based approval process for requesting IT pay approvals.

O.P. Exceptions to the standards contained in this regulation may be approved by the state personnel director.

CONTACT

Questions regarding this regulation should be directed to the Department of Civil Service, P.O. Box 30002, 400 South Pine Street, Lansing, Michigan 48909, (517) 335-7862 or (517) 373-7618, or MDCS-BHRS@state.mi.us.

NOTE: Regulations are issued by the State Personnel Director under authority granted in the State of Michigan *Constitution* and the *Michigan Civil Service Commission Rules*. Regulations that implement Commission Rules are subordinate to those Rules.